

Remarks:

Claims 28, 30-38, 40-46 and 48-55 are pending in the application after amendment herein. The Applicants have amended certain claims, as indicated above and as discussed below, to highlight aspects of the present invention and to address the claim rejections under §112 second paragraph, §102 and §103(a) set forth in the Final Office Communication. Accordingly, the Applicants respectfully request entry of this Amendment, withdrawal of the claim rejections and allowance of the application in view of the presented claim amendments and the following remarks.

Response to Claim Rejections Under 35 U.S.C. 112, second paragraph:

**Claims 28 and 53**

These rejections have been overcome by the Applicants' amendments set forth above. In both claims 28 and 53 the "and/or" phrase has been amended to "or." Other claims containing the "and/or" phrase have also been amended as set forth above.

In claims 28 and 53 the phrase "in the event" has been deleted and the phrase "wherein if" substituted therefore as set forth. Also the word "further" has been added. It is now clear that if the conditional phrase is satisfied, "then the step of analyzing further comprises . . . ." Alternatively, if the telecommunication terminal does not comprise a mobile telecommunication terminal then these additional claim elements are not considered. It is hoped that these clarifications will be satisfactory to Examiner McLeod to overcome the rejection.

Response to Claim Rejections Under 35 U.S.C. 102(b):

**Claims 28-34, 41-43, 46, 48-52**

Claims 28-34, 41-43, 46 and 48-55 are rejected under 35 U.S.C. 102(b) as unpatentable over Eneborg (WIPO Publication Number W/O 0135585A).

In the present final Office Communication the Examiner cites new grounds for rejection relying upon the same art as in the Office Communication of June 12, 2008, with a few slight modifications responsive to the Applicant's claim amendments filed on September 10, 2008. In the Applicant's amendment of September 2008, Claim 28 was amended to patentably distinguish the Eneborg reference. Since the Examiner has persisted in his presentation of the Eneborg

reference, the Applicants have now further amended the claims to more clearly claim the distinguishing features between the invention and the Eneborg reference.

The claim limitations added to claim 28 find support in the specification. The material added to the preamble is supported by the specification at lines 21-22 on page 8 and the material at lines 22-29 on page 9. The “recorded” reference in the first line of the analyzing step is supported by the material at line 34 on page 3. The reference to “according to different network accesses” is supported by the material at page 3, lines 24-27. The material referring to each network access comprising a network interface and a network access provider finds support at page 4, lines 6-20. The reference to the analyzing all combinations of network interfaces and available access providers is supported by the material at page 10 beginning at line 30.

The cited Eneborg WIPO publication discloses techniques for connecting an end device to one of a plurality of network access devices that provide access to a corresponding network. As Eneborg explains, for the end device to access these different networks, it must have a network terminating device dedicated to each network. Further, these network terminating devices may be uniquely-suited to the network they access. Thus the end device must include a network terminating device for each network it desires to access or the end device must access the desired network indirectly through an indirect interface that in turn communicates with a network terminating device connected to the desired network. To determine which of the available networks to access, the Eneborg’s end device stores current information about the networks in local memory and compares this information with user preferences.

One patentable distinction between Eneborg and the present invention as set forth in amended claim 1 relates to the collection of network access information. Claim 1 stipulates that the “network access information which has been determined and recorded by the telecommunications terminal . . . during earlier network connections using different network accesses. The Applicants look at historical (i.e., earlier) operating parameters based on earlier network accesses as claimed in the amended claim 28.

Eneborg suggests that his network access information is currently determined or continuously updated (see Eneborg page 10, lines 3-5), “may be obtained by processor 370 continuously or periodically updated via access mechanism 354,” or by “broadcasting announcements that indicate their presence to end devices, then these announcements may include access capability information associated therewith.” No where does Eneborg disclose

that the “network access information [which] has been determined and recorded by the telecommunication terminal or an additional telecommunication terminal during earlier network connections using different network accesses.”

Also, Eneborg appears to focus the selection process on available network terminating devices. At line 12 on page 13, Eneborg “determines whether there are any access network terminating device present.” Beginning at line 19 on page 13, Eneborg continues, “the end device obtains information about the network access terminating device, its associated access network and their cumulative or respective capabilities.” As claimed, the Applicants focus on user-specific and application-specific parameters.

The Eneborg network access process is different from the Applicants’ selection process. The Applicants analyze all combinations of network interfaces and available access providers. Eneborg is unable to analyze these combinations, but instead is limited to the one specific access network that is connected to the access network terminating device. Eneborg does not form different combinations of network interfaces and access providers. The Applicants’ process is essentially two-dimensional (network interfaces and access providers) while the Eneborg’s process is one-dimensional (network terminating devices). Under Eneborg’s scheme, selection of an access network terminating device limits connectivity to the access network connected to the selected terminating device. But the Applicants can create combinations of different network interfaces with different access providers, and thus better optimize the selection process.

Further, Eneborg does not disclose that the selected network access is “responsive to user-specific parameters and software application-specific parameters.” In fact, Eneborg does not mention software application-specific parameters. As Eneborg states beginning at line 1 on page 5, “providing selective access . . . as determined by, among other things, user preferences related to factors such as cost of service, quality of service etc. and the capabilities of access networks available to the end device.” As Eneborg continues on page 9 beginning at line 19, “those factors (e.g., cost, QOS, and the like) considered by the user to be of greatest importance in selecting which access mechanism to use for communicating data with network 150.”

Finally, Eneborg does not analyze “all combinations of network interfaces and available access providers” as the Applicants now claim. Instead, Eneborg appears to be focused on “which of the plurality of access network terminating devices are available, then the ‘best’ access mechanism to use for the present moment is selected based on the type of access network

terminating devices found and the user's preferences, and finally configuration for the chosen access network is performed."

Also, there is no reference in Eneborg to the use of information collected by other telecommunication terminals or the exchange of that information over a data exchange network. See the Applicants' claim 28 and the step of analyzing.

Given the presented amendments to claim 28 and the above remarks, the Applicants suggest that claim 28 is allowable and respectfully request entry of this amendment and allowance of the claim.

Dependent claims 30-34, 41-43 and 46-52 depend directly or indirectly from claim 28. The Applicants respectfully submit that these claims (note that cancelled claim 29 has been omitted from the list), each include one or more elements that further distinguish the invention over the art of record. Entry of this Amendment and allowance of these claims is respectfully requested.

#### **Claims 53-55**

Apparatus independent claim 53 has been amended in a manner similar to the amendments to method claim 28. Thus the remarks offered for claim 28 and its patentability apply to claim 53 and claim 53 is considered allowable over the Eneborg reference.

Dependent apparatus claims 53 and 54 depend directly from claim 53. The Applicants respectfully submit that these claims are also allowable over the cited art.

#### Response to Claim Rejections Under 35 U.S.C. 103(a):

##### **Claims 35-40**

Claims 35-40 are rejected under 35 U.S.C. 103(a) as unpatentable over Eneborg in view of Muller (6356541).

Claims 35-40 are dependent claims depending directly or indirectly from method independent claim 28. Claim 39 has been cancelled. The Applicants respectfully submit that claims 35-38 and 40 are also allowable over the cited art for the same reasons claim 28 is allowable over the cited art and each recites additional patentable features.

##### **Claims 44 and 45**

Claims 44 and 45 are rejected under 35 U.S.C. 103(a) as unpatentable over Eneborg in view of Tayloe (5826188).

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Claims 44 and 45 are dependent claims depending directly or indirectly from method independent claim 28. Thus the Applicants respectfully submit that these claims are also allowable over the cited art for the same reasons claim 28 is allowable over the cited art.

Conclusion

The commissioner is hereby authorized to charge any appropriate fees due in connection with this paper, including the fees specified in 37 C.F.R. §§ 1.16 (c), 1.17(a)(1) and 1.20(d), or credit any overpayments to Deposit Account No. 19-2179.

Respectfully submitted,

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